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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,538	11/05/2003	Rainer Weigand	R 304411	6068

7590 04/19/2006

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EXAMINER

TRAN, DIEM T

ART UNIT	PAPER NUMBER
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3748

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/700,538	WEIGAND ET AL.	
	Examiner	Art Unit	
	Diem Tran	3748	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-10 is/are rejected.
- 7) ☐ Claim(s) 6 and 7 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Paffrath et al. (US Patent 6,817,173).

Regarding claims 1, 10, Paffrath discloses a method for controlling a drive unit including a drive unit of a motor vehicle having an internal combustion engine, said engine being equipped with a secondary air charger having a turbine (18) (see Figure 1), the method comprising the steps of: blowing secondary air into an exhaust-gas system of said engine utilizing said secondary air charger; driving said secondary air charger via a pressure drop across an actuating element for adjusting an air supply to said engine; and driving said actuating element for adjusting said air supply to said engine which is corrected in dependence upon an air mass flow driving said turbine of said secondary air charger (see Figure 1, col. 2, lines 1-29).

Regarding claim 2, Paffrath further discloses that said actuating element is so driven that the air mass flow, which is to be supplied to said engine via said actuating element, corresponds to the total mass flow (24) less the air mass flow (16) through said turbine (18) (see Figure 1).

Regarding claim 3, Paffrath further discloses adapting a value of the air mass flow (42c) through said turbine (18) by comparing a measured air supply to said engine to a modeled air supply to said engine (see col. 8, lines 50-59, col. 9, lines 5-14).

Regarding claim 4, Paffrath further discloses measuring the air supply to said engine with a pressure sensor (see col. 8, lines 62-65, col. 9, lines 1-5).

Regarding claim 5, Paffrath further discloses modeling the air supply to said engine in dependence upon the engine rpm and the position of said actuating element while considering the air mass flow through said turbine of said secondary air charger (see col. 9, lines 25-35).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paffrath et al. (US Patent 6,817,173) in view of Tuleweit et al. (US Patent 6,497,094).

Regarding claims 8, 9, Paffrath discloses all the claimed limitations as discussed in claim 1 above, however, fails to disclose detecting a defective operation of said secondary air charger when a measured oxygen concentration in said exhaust gas system deviates in magnitude by more than a pregiven threshold value from a pregiven oxygen concentration. Tuleweit teaches detecting a defective operation of said secondary air charger when a measured oxygen

concentration in said exhaust gas system deviates in magnitude by more than a pregiven threshold value from a pregiven oxygen concentration (see col. 3, lines 1+).

It would have been obvious for one having ordinary skill in the art, to have utilized the teaching of Tuleweit in the Paffrath system since the use thereof would have provided an efficiency means to evaluate the operability of the secondary air system.

Allowable Subject Matter

Claims 6, 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication from the examiner should be directed to Examiner Diem Tran whose telephone number is (571) 272-4866. The examiner can normally be reached on Monday -Friday from 8:30 a.m.- 5:00p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion, can be reached on (571) 272-4859. The fax number for this group is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about

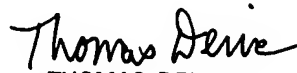
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the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DT
April 14, 2006



Diem Tran
Patent Examiner
Art unit 3748



THOMAS DENION
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700